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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

TESLA, INC., a Delaware corporation,
 Plaintiff,

vs.

MARTIN TRIPP, an individual,
 Defendant.

Case No. 3:18-cv-00296-LRH-CBC

**STIPULATION AND [PROPOSED]
 MODIFICATION TO
 SCHEDULING ORDER
 (FOURTH REQUEST)**

AND RELATED COUNTERCLAIMS

1 Pursuant to Local Rule 26-4, Plaintiff and Counter-Defendant Tesla, Inc. ("Tesla") and
2 Defendant and Counter-Plaintiff Martin Tripp ("Tripp") submit the following Stipulation and
3 Proposed Modification to Scheduling Order.

4 Tripp intends a motion to compel the deposition of Elon Musk, which issue has been
5 discussed with the Court in several Case Management Conferences. (ECF 54, 67, 72.) All other
6 discovery has been completed.

7 Good cause exists based on the following facts:

- 8 • At the May 13, 2019 Conference, the parties reported that they anticipated briefing
9 the issue of the Musk deposition. (ECF 72.) Counsel for Tesla requested that
10 briefing on the Musk deposition not occur until Tripp had completed all other
11 depositions of Tesla witnesses, to include Rule 30(b)(6) depositions of Tesla.
12 Counsel for Tripp noted that those depositions might not be completed sufficiently
13 in advance of the discovery cutoff to allow for briefing on the issue of the Musk
14 deposition. The Court directed the parties to meet and confer regarding the Musk
15 deposition after Tripp had completed the depositions of Tesla witnesses. The parties
16 and the Court agreed at the Conference that the issue of the Musk deposition could
17 be briefed after the close of discovery.
- 18 • In June 2019, Tesla retained additional counsel, and they were granted pro hac vice
19 admission of June 4, 2019. On June 19, 2019 the Court granted the parties'
20 stipulation to extend the discovery cutoff to September 9, 2019 so that the parties
21 could participate in a private mediation before completing other the outstanding
22 depositions. (ECF 81.) The private mediation occurred in San Francisco on August
23 5, 2019 but no resolution was reached. The parties subsequently completed nine (9)
24 depositions in seven (7) states (Michigan, Wisconsin, California, Texas, Arizona,
25 Nevada, and Kansas) between August 6 and September 9, 2019, to include Tripp's
26 deposition on September 4, 2019 in Arizona.

- 1 • The final Rule 30(b)(6) deposition of Tesla was completed on September 9, 2019,
2 which was the discovery cutoff. (ECF 81.) The parties thereafter engaged in a meet
3 and confer regarding the deposition of Musk on September 12, 2019. Tesla's
4 counsel requested that Tripp's counsel send a correspondence outlining the areas for
5 Musk's deposition and a potential time limit. Tripp's counsel sent Tesla's counsel a
6 correspondence on September 23, 2019 proposing the areas for Musk's deposition
7 and a time limit, but the parties were unable to come to an agreement.
- 8 • Tripp anticipates that Musk's deposition will be necessary to address issues that are
9 likely to be raised in dispositive motions. The current dispositive motion deadline is
10 October 9, 2019. (ECF 81.)
- 11 • Modification of the current schedule will allow the Court to hear the motion to
12 compel Musk's deposition and, if ordered, for the completion of the Musk
13 deposition before dispositive motions are filed.

14 The Court previously modified the Scheduling Order on December 5, 2018, March 6, 2019,
15 and June 19, 2019, pursuant to stipulation of the parties. (ECF Nos. 55, 68, and 81.) This is
16 therefore the fourth request for modification of the Scheduling Order. The parties do not anticipate
17 requesting further modifications.

18 For the foregoing reasons, the parties stipulate and respectfully request that the Scheduling
19 Order be modified as follows:

20 1. **Discovery Cutoff Date:** The discovery cutoff date shall be extended to
21 January 31, 2019 for the limited purpose of hearing the motion to compel the deposition of Elon
22 Musk and the completion of that deposition if ordered by the Court. No other discovery may be
23 taken and no other discovery motions may be filed.

24 2. **Briefing Schedule:** Tripp shall file his motion to compel by October 18, 2019.
25 Tesla shall file its opposition to the motion to compel by November 1, 2019. Tripp shall file any
26 reply brief by November 15, 2019.

27 3. **Page limits:** The brief in support of the motion to compel and the opposition brief
28 shall each be no longer than 15 pages; the reply shall be no longer than 10 pages.

4. **Hearing on Motion to Compel:** The Court will hold a telephonic hearing on the motion to compel the deposition of Mr. Musk on December 6, 2020 at 1:00 pm.

5. **Dispositive Motions:** Dispositive motions may be filed no later than March 2, 2020.

6. **Pretrial Order:** The pretrial order shall be filed no later than April 1, 2020. In the event dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until 30 days after the decision of the dispositive motions or until further order of the Court. The disclosures required by Federal Rule of Civil Procedure 26(a)(3), and any objections thereto, shall be included in the pretrial order.

7. All other deadlines remain as stated in the Discovery Plan and Scheduling Order previously entered by the Court (ECF Nos. 31, 55, 68 & 81).

Dated: September 27, 2019

CHARIS LEX P.C.

By: /s/ Sean P. Gates

Sean P. Gates
Attorneys for Plaintiff and
Counter-Defendant Tesla, Inc.

Dated: September 27, 2019

TIFFANY & BOSCO, P.A.

By: /s/ William Fischbach

William Fischbach
Attorneys for Defendant Martin Tripp

ORDER

IT IS SO ORDERED:

HON. CARLA BALDWIN CARRY
UNITED STATES MAGISTRATE JUDGE

DATED: _____